

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1920.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	May 22, 2002
DATE OF REPORT:	June 28, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	October 17, 2002

COMPLAINT ISSUES:

Whether the Fort Wayne Community Schools violated:

511 IAC 7-21-8 by failing to administer medication to a student in accordance with the physician's prescription.

511 IAC 7-27-7(a) by failing, in September 2001, to implement the student's IEP, specifically, changing the student's transportation from the general education bus to the special education bus.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to ensure the student puts his homework in his bookbag;
- b. failing to utilize the behavior checklist;
- c. failing to implement modifications and accommodations; and
- d. failing to develop and implement the behavioral intervention plan in April and May 2001.

511 IAC 7-27-4 and 511 IAC 7-27-5(d) by failing to utilize the case conference committee to determine if the student's placement should be changed and changing the student's placement without the parent's consent.

FINDINGS OF FACT:

1. The student is ten years of age, has just completed grade four, and qualifies for special education and related services under the category of other health impaired.
2. The Complainant asserts that the school has incorrectly documented administering medication to the student on February 23, 2001, a day the Complainant asserts the student was not in attendance. The school's medication administration log reflects that medication was administered to the student on February 23, 2001, at 9:15 a.m. The attendance records maintained by the school indicate the Student was suspended for the full day on February 23, 2001.
3. The Complainant contends that the school changed the student's transportation from the general education bus to the special education bus without a CCC meeting. At the July 26, 2001, CCC meeting, the CCC determined the Student required transportation as a related service. The agreed-upon IEP of July 26, 2001, further indicated that the student required special transportation rather than the general transportation provided to students without disabilities. The initiation date of the IEP was August 20, 2001.

The school reports that on the first day of school, the Complainant put the Student on the regular school bus that transports students from the apartment complex where the Student also resides. The Student continued to ride the regular bus until an incident occurred on the bus on August 31, 2001. Subsequent to the incident, the CCC met on September 6, 2001, and required the student comply with the current IEP by riding the special bus.

4. The Complainant contends that the teacher did not check to see that homework was sent home in the student's bookbag. None of the student's IEPs from the 2001-2002 school year included a requirement that the teacher check to see that homework was sent home in the student's bookbag.
5. The Complainant also contends that the behavior checklist was to contain positive notes home about the student, but the general education teacher wrote few positive notes. The IEP of December 3, 2001, specifies that positive notes on the daily behavior checklists be provided, but does not specify how frequently. A review of the daily behavior checklists from April, 2001, indicated that the general education teacher wrote positive remarks on the student's daily checklists on a total of 5 days and the special education teacher wrote positive remarks a total of 13 days during the same time period. The general education teacher wrote notes in short phrases, such as checking the "yes" box for turning in complete work and writing "most" next to the box and a smile-face. The special education teacher tended to write in complete sentences, describing the positive behavior and the setting or activity that the student had participated in at the time, as well as checked many more positive boxes for behavior each day.
6. The Complainant asserts that, based on comments on the behavior checklist, general education teacher did not comply with the requirements of the Student's IEP with regard to short-term objectives. The IEP dated July 26, 2001, includes a goal that the Student "will act in age appropriate way in classroom and school situations." The short-term objectives for this goal include that the Student will:
 - a. work and/or play without interfering or disrupting the work of others;
 - b. respond to deliberate peer provocation with self-control by ignoring it or requesting adult intervention; and
 - c. respond when angry or upset by initiating self-removal from the situation and/or appropriately seeking adult support.The IEP was amended on December 3, 2001, and includes a behavioral intervention plan (BIP). One of the identified weaknesses was the Student's "complaining about peers on a consistent basis w/o justification." One of the target behaviors to be decreased is the Student's verbal comments about peers. The behavior checklist was used to document the Student's behavior in relation to the BIP, not the short-term objectives. The checklist included the desired behaviors identified in the BIP, but did not include any behaviors related to self-control or seeking adult intervention pursuant to the Student's short-term objectives.
7. The Complainant contends that the school did not develop a behavior intervention plan (BIP) in a timely manner, as required by the student's IEP, resulting in the student being suspended from school on May 11, 2001. The student's IEP of April 18, 2001, states that a BIP will be developed and implemented by May 23, 2001, and the Complainant signed agreement with the IEP.
8. The Complainant asserts that the school is trying to change the student's placement. At the CCC meeting on April 26, 2002, the CCC (school staff) recommended a change of placement. The Complainant has not consented to the proposed change of placement. No change of placement has occurred to date.

CONCLUSIONS:

1. Finding of Fact #2 reflects that the School did not fail to administer medication in accordance with the Student's prescription. Therefore, no violation of 511 IAC 7-21-18 is found in this regard. However, the finding does indicate that the School incorrectly documented administering medication to the Student on a day when the Student was not in attendance at school. This indicates a problem with the School's policies and procedures for medication administration. Corrective action is required to address this problem.
2. Finding of Fact #3 indicates that the Student could not be transported with non-disabled students and special transportation was identified. However, the School permitted the Student to ride the bus with non-disabled students for several weeks at the beginning of the 2001-2002 school year. The School required the Student to utilize special transportation subsequent to an incident on the regular school bus. Although the School provided transportation for the Student at the beginning of the school year, it was not the special transportation required by the Student's IEP. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the provision of transportation. Although a violation is found, the school has taken appropriate action to implement the IEP, as written. No further corrective action is required.
3. Finding of Fact #4 establishes that the IEP did not require the teacher to ensure that the Student's homework was put in his bookbag at the end of the day. Therefore, no violation of 511 IAC 7-27-7(a) is found with respect to this issue.
4. Finding of Fact #5 reflects that the IEP required teachers to include positive notes about the Student on the behavior checklists sent home on a daily basis. There is no IEP requirement that the positive notes be included on every checklist sent home. Positive notes were included by the general education and special education teachers on a number of checklists sent home to the Complainant. Therefore, no violation of 511 IAC 7-27-7(a) is found with regard to this issue.
5. Finding of Fact #6 indicates that a behavior checklist was used to record the Student's daily behavior in relation to the established BIP. The IEP does not indicate that the checklist will be used to document the short-term objectives as the Complainant asserts. The checklist was appropriately used with the BIP. Therefore, no violation of 511 IAC 7-27-7(a) is found with regard to the short-term objectives or the use of the behavior checklist.
6. Finding of Fact #7 demonstrates that the IEP required a BIP to be developed and implemented by May 23, 2002. The Student was suspended prior to the timeline established for the BIP. Therefore, no violation of 511 IAC 7-27-7(a) is found with regard to the development of the BIP.
7. Finding of Fact #8 indicates that the school staff has recommended a change in placement, but without a parent's signed consent, no change in placement has been initiated by the school. Currently, there has been no change of placement; therefore, no violations of 511 IAC 7-27-4 and 511 IAC 7-27-5(d) have been found.

The Department of Education, Division of Exceptional Learners, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Fort Wayne Community Schools shall:

1. Review, and if necessary, revise the policies and procedures regarding administration of medication to students to ensure that accurate documentation of medication administration occurs and to ensure that documenting that medication is administered to a student when the student is not present at school

does not occur. A copy of the policies and procedures shall be submitted to the Division no later than September 10, 2002.